

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1320V

Filed: February 3, 2016

Unpublished

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ESMERALDA MORALES,

Petitioner,

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Influenza Vaccination;  
Shoulder Injury Related to Vaccine  
Administration ("SIRVA");  
Special Processing Unit ("SPU")

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*Diana Sedar, Maglio, Christopher and Toale, PA (FL), Sarasota, FL, for petitioner.  
Camille Collett, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On November 4, 2015, Esmeralda Morales ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the "Vaccine Act" or "Program"]. Petitioner alleges that she suffered a shoulder injury caused in fact by the influenza vaccination she received on March 19, 2014. Petition, at ¶¶ 1, 9. Petitioner further alleges that she has suffered the residual effects of her vaccination for more than six months and neither she nor anyone else has brought a civil action or received compensation for her vaccine-related injuries. *Id.*, at ¶¶ 10, 13-14. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 2, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

4(c) Report at 7. Specifically, respondent “believes that the alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”) and it was caused in fact by the influenza vaccine she received on March 19, 2014.” *Id.* at 4. Respondent has not identified an alternative cause for petitioner’s injury and believes petitioner has satisfied the six month statutory requirement and “all prerequisites for compensation under the Act.” *Id.*

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master